

1 KYM SAMUEL CUSHING, ESQ.
Nevada Bar No. 4242
2 DOUGLAS M. ROWAN, ESQ.
Nevada Bar No. 4736
3 **WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**
300 South Fourth Street, 11th Floor
4 Las Vegas, Nevada 89101
(702) 727-1400; FAX (702) 727-1401
5 kym.cushing@wilsonelser.com
douglas.rowan@wilsonelser.com
6 *Attorneys for Defendant Target Corporation*

7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 ELAINA BARBER, an individual,

11 Plaintiff,

12 v.

13 TARGET CORPORATION, a Minnesota foreign
corporation; DOES I through X, inclusive; and ROE
14 BUSINESS ENTITIES I through X, inclusive;

15 Defendants.

CASE NO.: 2:13-cv-02268-JCM-VCF

16 **STIPULATION FOR EXTENSION OF DISCOVERY DEADLINES**

17 **(Third Request)**

18 The above named parties, by and through their respective counsel of record, hereby submit
19 the following STIPULATION FOR EXTENSION OF DISCOVERY DEADLINES (Third Request)
20 pursuant to Federal Rules of Civil Procedure 6(b) and 26(f) and Local Rules 6-1 and 26-4.

21 **A. DISCOVERY COMPLETED TO DATE**

22 On January 31, 2014, the parties held an initial Rule 26(f) Conference. Plaintiff's initial
23 disclosure of documents and witnesses was made on February 10, 2014. Plaintiff has served four
24 supplements to those disclosures. Defendant's initial disclosure of documents and witnesses was
25 made on February 26, 2014. Defendant has served five supplements to those disclosures. On
26 February 13, 2014, the parties filed a Stipulated Discovery Plan and Scheduling Order. The Court
27 has previously granted two extensions of the initial discovery deadlines.
28

1 On February 27, 2014, Defendant propounded a First Set of Interrogatories and a First Set of
2 Requests for Production of Documents upon Plaintiff. Plaintiff served her responses to those written
3 discovery requests on April 2, 2014. Plaintiff served Supplemental Answers to Interrogatories on
4 September 30, 2014.

5 On April 16, 2013, Plaintiff propounded a First Set of Interrogatories, a First Set of Requests
6 for Production of Documents, and a First Set of Requests to Admit upon Defendant. Defendant
7 served its responses to those written discovery requests on June 9, 2014. Defendant served
8 Supplemental Responses to Plaintiff's First Set of Requests for Production on October 7, 2014.

9 On June 16, 2014, Plaintiff propounded a Second Set of Requests for Admissions upon
10 Defendant. Defendant served its responses to those Requests on July 15, 2014.

11 On September 4, 2014, Defendant propounded Pretrial Interrogatories and Pretrial Requests
12 for Production of Documents upon Plaintiff. Plaintiff served her responses to those written
13 discovery requests on November 3, 2014.

14 On December 9, 2014, Defendant propounded a Second Set of Requests for Production of
15 Documents upon Plaintiff. Plaintiff served her responses to those Requests on January 28, 2015.

16 Plaintiff served her initial expert witness disclosures on August 6, 2014. Plaintiff served a
17 supplement to her initial expert disclosures on February 5, 2015. Defendant served its initial expert
18 witness disclosures on August 8, 2014.

19 Defendant has obtained a number of Plaintiff's medical records directly from her medical
20 providers through records authorizations provided by Plaintiff.

21 The parties have conducted the following depositions:

- 22 1. Elaina Barber on June 17, 2014;
- 23 2. Dr. Luis Diaz on June 20, 2014;
- 24 3. Dr. Michael McKenna on June 25, 2014 and October 2, 2014;
- 25 4. Megan O'Blenness on July 23, 2014;
- 26 5. Emanuel Flores on July 30, 2014;
- 27 6. Dr. Ryan Kissling on July 31, 2014;
- 28 7. Dr. Andrew Cash on August 19, 2014;
8. Dr. Sang Tran on October 7, 2014;

1 9. Dr. Jeffrey Muir on March 4, 2015.

2 **B. DISCOVERY THAT REMAINS TO BE COMPLETED**

3 Defendant noticed the depositions of Terrence Dineen, Steve Barber, and Dr. McKenna to
4 take place within the current discovery period. However, Mr. Barber and Dr. McKenna are not
5 available for their depositions until after the current close of discovery. The parties also believe that
6 it may be necessary to make further expert disclosures depending upon the results of Plaintiff's
7 ongoing treatment and evaluation. The parties anticipate conducting the depositions of any
8 additional expert witnesses or of any previously disclosed expert witnesses who develop additional
9 opinions.

10 **C. REASONS WHY DISCOVERY HAS NOT BEEN COMPLETED**

11 Plaintiff had ceased treatment for her alleged injuries in September 2013. She was able to
12 maintain her condition through medication for approximately a year. However, she resumed
13 medical treatment in the fall of 2014 due to an increase in her pain, prompting the parties to request
14 this Court to re-open discovery. Dr. McKenna has been evaluating and treating Plaintiff for the past
15 several months. The parties had not been able to complete discovery until Dr. McKenna completed
16 his evaluation of Plaintiff. The parties believe that Dr. McKenna is now at a point in his current
17 evaluation of Plaintiff where he can update his opinions. The parties believe only a limited
18 extension of discovery is now necessary.

19 Therefore, the parties request a sixty day extension of the current discovery deadlines.

20 **D. PROPOSED DISCOVERY SCHEDULE**

21 Close of Discovery:	June 5, 2015
22 Dispositive Motions:	July 6, 2015
23 Joint Pre-Trial Order:	August 5, 2015
24 Last day to amend pleadings:	Closed
Initial Expert Disclosures:	Closed
Rebuttal Expert Disclosures:	May 6, 2015
Interim Status Report	Closed

25 The instant Stipulation and Order was not submitted at least twenty-one days before the
26 rebuttal expert disclosure deadline as the need for the extension of the current discovery deadlines
27 did not arise until less than twenty-one days before that deadline. The parties only recently received
28 updated medical records from Dr. McKenna regarding his evaluation of Plaintiff.

1 Defendant recently filed a Motion to Extend Discovery Deadlines (Third Request) seeking to
2 extend the discovery deadlines. The parties have reached an agreement to extend discovery sixty
3 days and Defendant is agreeable to withdrawing the pending motion.

4 DATED this 31st day of March, 2015

DATED this 31st day of March, 2015

5 **WILSON, ELSER, MOSKOWITZ,**
6 **EDELMAN & DICKER LLP**

BENSON, BERTOLDO, BAKER &
CARTER, CHTD.

7 /s/ Kym Cushing

Kym Samuel Cushing, Esq.

8 Nevada Bar No. 4242

Douglas M. Rowan, Esq.

9 Nevada Bar. No. 4736

300 South Fourth Street, 11th Floor

10 Las Vegas, Nevada 89101

Attorneys for Defendant Target Corporation

/s/ Steven Baker

Steven M. Baker, Esq.

Nevada Bar No. 4522

7408 W. Sahara Ave.

Las Vegas, NV 89117

Attorneys for Plaintiff

11
12 IT IS SO ORDERED.

13 Dated this 1st day of April, 2015.



14
15 **UNITED STATES MAGISTRATE JUDGE**

16
17 The parties have filed a stipulation for extension of discovery deadlines,
18 Accordingly, IT IS HEREBY ORDERED that Defendant's Motion for Extension of
19 Discovery Deadlines (#22) is denied as MOOT.
20
21
22
23
24
25
26
27
28